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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,245	10/10/2001	Robert W. Insalaco	3591-1155	9615

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Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 07/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/975,245

Applicant(s)

INSALACO ET AL.

Examiner

James O. Hansen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 & 23-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 23-26 is/are rejected.
- 7) ☒ Claim(s) 27-29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 10 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

1. Claims 15-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5. It is noted that these claims have been canceled. ✓

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "110" has been used to designate both a hinge pin and tie members. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. ✓

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2-9, 11-14 & 24-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claims 2-9, 11-14 & 24-29, the phrase "The invention of..." does not constitute a proper preambulatory antecedent basis since the independent claims [claims 1, 10 & 23] are directed towards to "storage unit", "a storage unit kit" and a "storage unit" respectively. In ✓

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Claim 6, the phrase "a third tie member" is unclear and confusing since no 'second tie member' was previously claimed. In Claim 7, the phrase "said shelf" does not have a proper antecedent basis. In Claim 8, the phrase "said second shelf" and "third shelf member" do not have a proper antecedent basis; additionally, the phrase "said insert" [last line] is unclear since it is not clear which one would relate to the "said shelf" as noted in the earlier 112(2) [the claims presently state that "said shelf" comprise an insert]. In Claim 9, the phrase "said, side front and back panels" is unclear and confusing as presently defined. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 6-7 & 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Dutmers [U.S. Patent No. 2,962,334]. Dutmers (figures 1-9) teaches of a storage unit [can be viewed a kit] comprising: a first shelf member (11 of unit #3) and a second shelf member (4 of unit #3); a pair of side panels (5) disposed between the first and second shelf members [bottom of a panel is supported by the first shelf member while the second shelf member is supported on a top of the panel], the panels including a securing member [see col. 2, lines 39-45]; a plurality of tie members (10) extending between and connecting the shelf members with the panels clamped therebetween; an insert (8) that threadably engages the tie members and includes a

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threaded bore extending therethrough [fig 3. e.g.]; a front panel pivotally attached to the unit [see col. 2, lines 19-22]; a third shelf member (4 of unit # 2); and another vertical panel (5 of unit #2) that is supported on the second shelf member via member 11 of unit #2.

7. Claims 1, 3, 7 & 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Pauer et al., [U.S. Patent No. 5,234,267. Pauer (figures 1-3) teaches of a storage unit [can be viewed a kit] comprising: a first shelf member (16) and a second shelf member (14); a pair of side panels (18) disposed between the first and second shelf members [bottom of a panel is supported by the first shelf member while the second shelf member is supported on a top of the panel]; a plurality of tie members (32) extending between and connecting the shelf members with the panels clamped therebetween; an insert (36, 37) that threadably engages the tie members and includes a threaded bore extending therethrough; and a front panel (22 for example) adapted to be connected to at least one of the side panels.

8. Claims 1-7, 10-11, 13-14 & 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Tisbo et al., [U.S. Patent No. 5,975,660]. Tisbo (figures 1-9) teaches of a storage unit [can be viewed a kit] comprising: a first shelf member (12) and a second shelf member (24); a back panel (22) with a securing member (note the hinge knuckle); a pair of side panels (14, 16) disposed between the first and second shelf members [bottom of a panel is supported by the first shelf member while the second shelf member is supported on a top of the panel], the panels including a securing member [68]; a plurality of tie members (42, 44) extending between and connecting the shelf members with the panels clamped therebetween, the tie members engaging a respective side panel and the back panel; an insert (46) that threadably engages the tie

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members and includes a threaded bore extending therethrough [note fig 6A. e.g.]; and a front panel (26 or 28) pivotally attached to the unit. Note that additional side panels may be added to increase the height of the unit (see figures 9-11 for example).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dutmers. Dutmers teaches applicant's inventive claimed concept as disclosed above, but does not show a tie member extending between and connecting the second and third shelf members [Dutmers shows tie members connecting respective spaced shelf members], nor does Dutmers show the panels being made of a translucent material. As to the tie member, It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the connecting members of Dutmers storage unit since varying the connection of the tie member without utilizing the filler strip can be achieved without undue experimentation; additionally, attachment of the tie members directly into adjacent shelf members would enhance the strength and stability of the stacked unit. As to the translucent material, it would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the type of material used to manufacture the unit, since it has been held to be

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within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

11. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tisbo et al. Tisbo teaches applicant's inventive claimed concept as disclosed above, but does not show show the panels being made of a translucent material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the type of material used to manufacture the unit, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Allowable Subject Matter

12. Claims 27-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

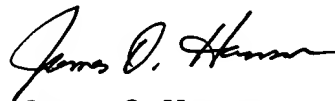
13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Uffner et al., Ebert, and Chan describe storage units having panels with securing members. Yellin and Italian publication 716459 describe stacked storage units. Zola describes a stacking storage unit utilizing rods for connecting the shelves and panels together. Henriott et al., describes a double threaded insert.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 703-305-7414. The examiner can normally be reached on Mon.-Fri. 8-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
July 28, 2003